

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
SOUTHERN DIVISION AT CHATTANOOGA**

HAMILTON BEACH BRANDS, INC.,

Petitioner,

v.

No.: 1:24-mc-25-CEA-chs

**THE ESTATE OF MYRTLE IRENE MOORE,
THE ESTATE OF D'NESE LYNN MOORE, and
FRANK ODEM,**

Respondents.

**MOTION FOR EXPEDITED HEARING ON
RULE 27 PETITION FOR PRESERVATION OF EVIDENCE**

Petitioner, Hamilton Beach Brands, Inc. (“Petitioner” or “HBB”), through undersigned counsel, submits this Motion for Expedited Hearing on HBB’s Petition for Preservation of Fire Scene Evidence and Supervision of the Court, filed pursuant to Federal Rules of Civil Procedure 27 and 34 on June 18, 2024 (ECF No. 1) (“Petition”), and hereby asks this Court to set an expedited hearing on its Petition pursuant to Local Rule 7.2.

As stated in the Petition, a house fire occurred on April 21, 2024, at 173 North Brook Drive NE Cleveland, Tennessee 37312, that was owned by Myrtle Irene Moore. Irene Moore and her daughter, D’Nese Lynn Moore, died in the fire. Their respective estates are Respondents to this Petition. The Bradley County Fire-Rescue department responded to the fire and prepared an incident report (“Incident Report”) that identifies the area of origin as “Cooking area, kitchen.” The Fire-Rescue department moved several kitchen items from the fire’s area of origin in the kitchen to outside

the house and placed them on the steps leading to an outside deck. Upon information and belief, these items have been left there. After that, Pamela Jeanine Moses, contacted HBB and threatened a “product liability wrongful death lawsuit,” because “my family was killed by your defective crockpot.”

HBB has urgent and substantial need for this Court to order the preservation of all of the fire scene evidence including the kitchen items outside of the house and the house itself. The evidence is unsecured and exposed to the elements. HBB has further petitioned for an order setting an inspection of the fire scene on a date certain. HBB asks that this Court set the Petition for an expedited hearing in order to ensure preservation of the evidence that may be the subject of a pending wrongful death or product liability lawsuit.

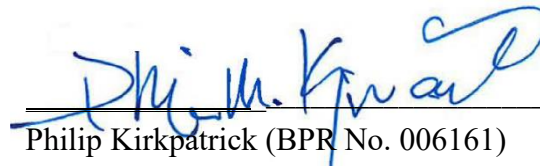
Pursuant to Rule 27(a)(2), “At least 21 days before the hearing date, the petitioner must serve each expected adverse party with a copy of the petition and a notice stating the time and place of the hearing.” Fed. R. Civ. P. 27(a)(2). This notice requirement is not “sacrosanct” and may be modified by this Court “depending on the circumstances of a particular case.” *Application of Deilumar Di Navigazione S.p.A.*, 154 F.R.D. 592, 593 (E.D.La. Feb. 22, 1994). Specifically, where due process has been complied with and prejudice will not result to the respondent, the Court may shorten the hearing’s notice period. *Id.* HBB has provided notice to probate counsel for the Respondent-Estates, Sally Love. HBB has also provided notice to Mr. Odem, who asserted that he is next-of-kin of the Myrtle Irene Moore. By preserving evidence forming the basis of a potential cause of action, there can be no prejudice to any party, particularly the potential plaintiff.

Pursuant to Local Rule 7.2, “Under exceptional circumstances, the Court may act upon a motion prior to the expiration of the response time.” LR 7.2. HBB contends that for the reasons shown herein and in the Petition, the circumstances forming the basis of HBB’s request are exceptional.

WHEREFORE, HBB asks that this Court set an expedited hearing on its Petition and provide notice to the Respondents of the same.

Respectfully submitted this 20th day of June, 2024.

Respectfully submitted,
ADAMS AND REESE LLP



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Attorneys for Petitioner

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a copy of the foregoing document was served on the parties or counsel below as indicated.

Frank Odem
1324 ½ N. Royal St.
Jackson, Tennessee 38301-3657
Via FedEx Priority Overnight, Signature Req. 'd
June 19, 2024

Sally Love
223 Harle Ave NW
Cleveland, Tennessee 37311-4935
Counsel for Next of Kin of the Estates of
Myrtle Irene Moore and D'Nese Lynn Moore
Via FedEx 2Day A.M.
June 19, 2024

The Estate of Myrtle Irene Moore
173 North Brook Drive NE
Cleveland, Tennessee 37312
Via U.S.P.S. Priority
June 20, 2024

The Estate of D'Nese Lynn Moore
173 North Brook Drive NE
Cleveland, Tennessee 37312
Via U.S.P.S. Priority
June 20, 2024

Pamela Jeanine Moses
804 Holly Street
Memphis, Tennessee 38112
Via FedEx, 2Day A.M. Signature Req. 'd
June 19, 2024


Philip Kirkpatrick